PUBLIC SERVICE PENSION PLAN BOARD

1986 Annual Report

Alberta
TREASURY

89-05202/

Alberta

TREASURY
PUBLIC SERVICE PENSION PLAN BOARD

1203, Legislature Annex, 9718 - 107 Street, Edmonton, Alberta, Canada T5K 1E4

The Honourable Dick Johnston
Provincial Treasurer
224 Legislature Building
EDMONTON, Alberta
T5K 2B6

Dear Mr. Johnston:

I have the honour to submit to you the first report of the Public Service Pension Plan Board for the period November 1, 1985 to December 31, 1986. The report outlines the role and responsibilities of the Public Service Pension Plan Board under legislation governing the plan.

Case summaries and summaries of recommendations made are included to provide an indication of our activities during the fourteen month period under review. Comments made on all aspects of the plan have been presented with the view of strengthening the plan.

Yours truly,

J. E. Faries, FCIS, PAdm.
Chairman

TABLE OF CONTENTS

	Page No.
INTRODUCTION	1
THE BOARD	3
Its Role and Staff	4
APPLICATIONS AND APPEALS	
Appeal Procedure	5
Applications and Appeals	6
Case Summaries	7
JURISDICTION	18
RECOMMENDATIONS	18
EXCERPTS FROM THE ACT	23

INTRODUCTION

The Public Service Pension Plan Act replaced the Public Service Pension Act effective November 1, 1985. The Public Service Pension Board established under the former Act had many of the responsibilities of the current Board, however, it was also responsible for the administration of the pension plan. With the inception of the new Act, the responsibility for the administration of the plan was transferred to the Minister.

The Provincial Treasurer was appointed Minister for Pensions and day-to-day administration of the Plan was delegated to Payroll and Pensions, a Division of Alberta Treasury. The Honourable Lou Hyndman was Minister for Pensions until April 1986 when he was succeeded by the Honourable Dick Johnston.

The purpose of this report is to provide the reader with an understanding of the activities of the Pension Board during the period in question. In addition to reporting the appeals heard, an attempt is made to address issues facing the pension plan and to recommend improvements from a funding and benefit point of view.

APPEALS AND APPLICATIONS

Alberta was one of the first jurisdictions to establish an independent body to deal with complaints of plan members who consider themselves "aggrieved by a decision" made on their pension account. Many of the other jurisdictions in Canada have expressed interest in the procedure. The Chairman presented a paper on this topic during the Annual Conference of the Association of Canadian Public Service Pension Advisors in Victoria during July 1986.

The new legislation also removed "mandatory retirement" at age 65 and introduced a "spousal protection" clause. There has been little feedback on the removal of mandatory retirement, since it has made the actual legistation neutral on this issue. The retirement policy is now responsibility of the employee and employee. The spousal protection clause engendered feedback from plan members, some of whom considered it an interference, since it may override agreed arrangements between spouses. Some plan members asked that a spousal protection waiver form be developed to address their concern.

The Administration is actively transferring responsibility to government departments and other employers, some of whom consider that they do not have the expertise to conduct the complex counselling necessary, thereby creating a sense of uncertainty.

The Board noted that a number of cases heard came from one department. During investigation, it was clear that pertinent information was not being provided to plan members. This matter was brought to the attention of senior personnel of that department and steps were taken to correct the deficiency.

LIABILITIES AND COSTS

At the request of Alberta Treasury, independent actuarial valuations of the six government administered pension plans were conducted as of March 31, 1985. The estimated accrued liabilities of all six plans were $6,443,214,000. When compared to Pension Fund assets of $2,569,925,000, these liabilities left an unfunded liability of $3,873,289,000 as of March 31, 1985. The estimated accrued liability attributable to the Public Service Pension Plan was $1,654,033,000.

The normal actuarial cost of the Public Service Pension Plan as a percentage of payroll was 12.7%, using the attained age actuarial cost method. Using the unit credit actuarial cost method, the cost was 10.5% of payroll. The employee statutory contributions are 3.85% of salary up to the year's maximum pensionable earnings (YMPE), and 5.5% of salary above the YMPE for 1986. Matching contributions are made by the employers. Total employee and employer statutory contributions were approximately 8.4% of payroll for 1986. Under the scheduled increases occuring each January 1, until January 1, 1989, statutory contributions will equal approximately 9.6% of payroll in 1989 and future years.

The valuation results quoted are based on the assumption that cost of living adjustments (COLA) granted to pensioners and deferred pensions will continue annually at the rate of 75% of the annual increase in the Consumer Price Index (CPI). The government administered pension plan Acts provide, however, that ad hoc COLA may be made for the purpose of maintaining approximate parity with the cost of living. In the years 1970 through 1986, COLA has been granted consistently with the result that the average annual compound increase represents approximately 75% of CPI over the period.

The Pension Fund was created in 1981 and 1.1 billion dollars were transferred from General Revenue. In subsequent years, excess receipts and over payments made under the six government administered pension plans have been transferred to the fund. As of March 31, 1986, the total fund amounted to $3,010,701,000.

For the 1985-86 fiscal year, receipts for all plans of $340 million compared to disbursements of $206 million, resulted in a net transfer to the Pension Fund of $134 million. For the Public Service Pension Plan, 1985-86 receipts of $96 million compared to disbursements of $67 million, gave a net transfer under the plan of $29 million.

PLAN DEVELOPMENT

Effective January 1, 1987, pension reform legislation came into effect regulating Alberta private sector pension plans and all federally regulated pension plans.

Though not directly regulated by this legislation, it is noted that the Public Service Pension Plan fails to meet the following minimums which will apply to Alberta private sector pension plans:

- increased eligibility of part-time continuous employees;
- minimum requirement for locking-in;
- general portability;
- reasonable interest on pension contributions.

In October 1986, the Federal Government proposed a new system to equalize the tax sheltering for various retirement savings vehicles. Development of the proposals and implementation are scheduled over the next few years, with full implementaton by 1991.

ADMINISTRATION

During 1986, the Department of Treasury commissioned a "Communication Study." We suggest a copy of the report be provided to the Board in order to consider our recommendations to the Minister in the important area of communications.

New Participant Handbooks have been available and we commend Treasury for providing updated information to plan members. It now becomes the employer's responsibility to ensure that the booklets are distributed to participants. We encourage the continuation of employee information seminars for plan members throughout the province.

The Employer Manual developed by Payroll and Pensions provides information for plan administrators in departments and other agencies. Some employers report that the Manual is too complex. In our view, it should be simplified if it is to be of any assistance, to staff of the employers, in administering the plan. We would continue to encourage workshops to assist employers to understand their function in the delivery of the pension program.

THE BOARD

The Public Service Pension Plan Board was established on the proclamation of the Public Service Pension Plan Act November 1, 1985. The current Board consists of two employee representatives (nominated by AUPE), one employer representative, one government representative, and the Chairman.

MEMBERS

J. E. Faries
Chairman

Mr. Faries was appointed Chairman effective November 1, 1985. He brings to the Board considerable background in pension policy and administration. He served over fifteen years as Director of the Pension Administration until December 31, 1979. Currently he holds several senior positions on other boards and community organizations. His term of office on the Board extends until April 1, 1988.

A.F. (Chip) Collins
Vice Chairman

"Chip" Collins served as Deputy Provincial Treasurer from 1972 until his retirement in 1984. Mr. Collins was appointed a Board member and Vice Chairman of the Board effective April 29, 1986. He brings to the Board extensive financial and administrative experience as well as senior public service experience. Mr. Collins is a government representative. His term expires on April 1, 1987.

Clifford Craig

Mr. Craig represents AUPE and has served on the Board since November 1, 1985. He provides a good understanding of the position of employees under the plan. His appointment expires on April 1, 1988.

Gilbert Heise

Mr. Heise represents the employer and was appointed to the Board on November 1, 1985. He has extensive experience in the employee benefit field. He is currently the Manager, Benefits and Salary Administration, Personnel Administration. His term expires on April 1, 1988.

P. Leroy Morgan

Mr. Morgan was appointed to the former Public Service Pension Board in December, 1967. He has extensive experience in representing members of AUPE. His concern for the welfare of members and fiscal health of the plan has been a major asset. His term expires on April 1, 1987.

ROLE

The role of the Board as outlined in the legislation is that of an appeallate and recommendatory body. Its appeal function, an attempt is made to ensure that a person is treated fairly and in accordance with the rules of natural justice.

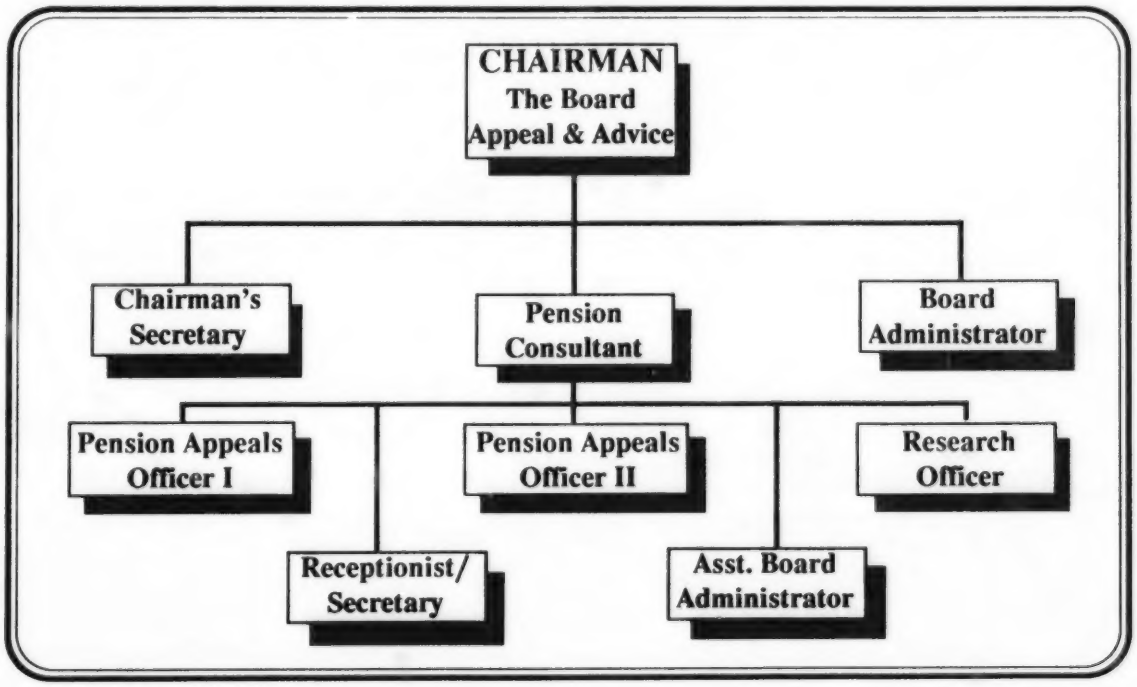
This role is vital to plan members since they no longer have direct input into the administration of the plan through their representatives on the Board. It is essential that in its appeal mode all aspects of the case are heard and the decision is made on the basis of evidence presented. Each individual case is considered on its own merits, keeping in mind that the purpose of pension legislation is to provide a benefit to the member. In appeal cases, and particularly where special circumstances are present, the Board attempts to provide an equilibrium between administrative expediency and the rights of the individual.

In its advisory role, the Board acts as a committee. It provides advice to the Minister, considering the question from employee, employer's and government's point of view. Since the Board is a mix of employee, employer, and government representatives, the recommendation is a well-rounded consensus relating to plan benefits and administration.

STAFF

The staff provides advice and administrative services to the Board and to the Boards of the five other government administered pension plans.

The Board also obtained independent legal and actuarial advice during the year under review to assist in its decision making process.



APPLICATIONS & APPEALS

APPEAL PROCEDURE

Legislation provides the Board with the responsibility of hearing appeals registered by plan members who feel aggrieved by a decision of the Minister.

Since legislation does define the procedure, the Board has established has its own rules.

Any decision, which affects the rights to which a party is entitled under the plan, may be appealed. The department has been delegated the responsibility of making decisions on behalf of the Minister. Appeals can be registered on matters pertaining to:

Participation	Pensionable Service
Contributions	Benefits

The Minister has approved a form to be used by appellants in registering their appeal with the Board. A self-addressed and postage prepaid "Notice of Appeal" permits the registration of an appeal in a convenient and simple process. An appeal must be registered within 30 days of notification of the decision of the Minister. Where the Board considers that the facts so warrant, the time limit may be extended and the case heard.

The staff of the Board investigates the complaint and catalogues the details for Board consideration. The Appeals Officer provides some assistance on the preparation of the case. A brochure entitled "The Appeal Process - Guidelines for Members of Alberta Pension Plans" is available to appellants or their representatives to assist in developing their appeals.

The hearings are deliberately kept informal and investigatory in nature. Steps are taken to ensure that natural justice is available to all concerned parties. The quorum of the Board required to hear appeals, has been established at three members, one representing employee interests and one representing employer interests, chaired by either the Chairman or Vice-Chairman.

At its April 1986 meeting, the Chairman was authorized to reimburse appellants and applicants for out of pocket expenses incurred while appearing before the Board. This was done in order that plan members, no matter where they reside, have the same opportunity to appear and present their side of the issue.

To ensure all parties to the hearing have all the facts, copies of the case description, as received by members of the Board, are distributed to those parties who have material interest in the case. All parties have the right to:

- receive notice of the hearing,
- to be present, or be represented at the hearing.

Once the Board has reached a decision, the parties are notified, usually within ten days. At the discretion of the Chairman, a re-hearing may be scheduled, if the facts warrant it.

Section 36 of the Act, permits a party aggrieved by a decision of the Board, to appeal the decision to the Court of Queen's Bench. The subject of the appeal must be on the basis of interpretation of the law or jurisdiction and must be registered within 30 days of notification of the decision. Appellants are advised of this avenue if a negative decision is rendered on their appeal.

APPLICATIONS

There are two types of applications considered, one under Section 10 of the Act and the other reciprocal transfer agreements.

Under Section 10, the legislation provides that, where there is a time limit under the plan, the Board has the authority to extend it. The Board is required to review each case in order to satisfy itself that no material fault is attributable to the appellant. It must also be proven that the failure to meet the time limit will or could result in a person obtaining different benefits than those he would have received had the time limits been met.

In addition, if the foregoing conditions are evident, the Board may revoke a benefit choice where it is satisfactorily proven that the choice communicated to the Minister was not the choice the member had intended to make and the circumstances of the member did not change since the time the choice was made.

Reciprocal transfer agreement time limits are heard under a clause in the agreement itself. The majority of agreements require two time limits to be met. One requires that a person must, within a period of three months of ceasing employment (participation) under the exporting plan, commence under the importing plan. The second is the requirement that the person apply to have the transfer made within one year of commencement under the importing plan. The Board may, if in its view the circumstances warrant, grant an extension of the time limits and permit the transfer.

In his letter of December 16, 1986, the Minister challenged the Board's jurisdiction to extend reciprocal agreement time limits. The Minister's view is that the reciprocal agreements do not form part of the Plan, and therefore time limits relating to the agreements cannot be extended under Section 10(1). The question of jurisdiction was not resolved during the period under review.

APPLICATIONS AND APPEALS SUMMARY*

During the period November 1, 1985 to December 31, 1986, 30 applications for the extension of time limits and 12 appeals were considered during 12 meetings of the Board. In considering a total of 42 applications and appeals, the Board varied the Minister's decision in 28 cases, comprising 67% of cases heard.

* Included in the summary are several appeals registered prior to November 1, 1985 and dealt with by the Board in its former capacity.

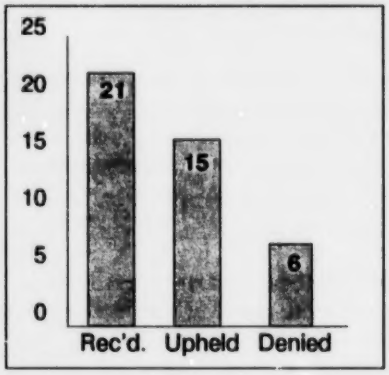
SUMMARY OF APPLICATIONS FOR TIME LIMIT EXTENSIONS

	TOTAL	APPLICATIONS GRANTED	PERCENTAGE OF TOTAL
Time Limits Extension Section 10(1)	5	5	16.7%
Change of Benefits Choice Sect. 10(2) & (3)	4	3	13.3%
Application for Extension - Reciprocal Transfer	21	15	70 %
TOTALS	30	23	100 %

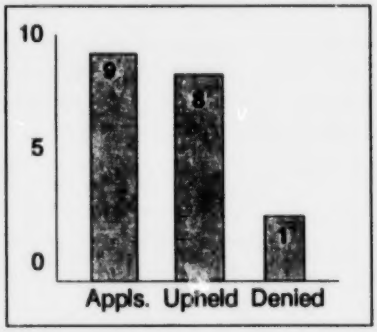
SUMMARY OF APPEALS UNDER SECTION 35

TYPE	TOTAL	MINISTER'S DECISION ALTERED	PERCENTAGE OF TOTAL
Participation	2	0	25 %
Pensionable Service	4	2	25 %
Benefits	6	3	50 %
TOTALS	12	5	100 %

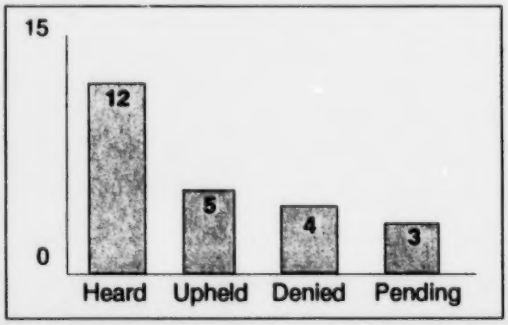
CASES DEALT WITH
November 1, 1985 - December 31, 1986



Breaks in service and late applications under a reciprocal agreement where member failed to meet the time limits.



Section 10 time limits. Appeals dealt with 5 related to leave of absences and 4 dealing with pension option.



Other appeals dealing with Participation and Re-employment after retirement (3), Pensionable Service (3), Pension or Deferred Pension Benefits and Disability Pensions (6).

CASE SUMMARIES

In its inaugural period of operation, the Board attempted to amplify its role as an appellate body and sought to clarify the extent of its authority and jurisdiction. The Legislature of Alberta is concerned about justice for plan members and therefore established a Board with relatively broad jurisdiction, within the legislation, to review administrative decisions made by the Minister. The case summaries provide an indication of the Board's activities and an explanation of its responsibilities.

The case summaries illustrate the nature of the cases considered during the year. The summary may also provide assistance to plan members in developing their appeals, employers in identifying any areas where they may have been deficient, and to Alberta Treasury in developing procedures and systems to deliver pensions benefits to plan members.

Only written appeals or applications are considered by the Board. However, some concerns are resolved by the staff during the review and investigation process.

Appellants are advised in writing of the decision made on their case, and the reasons, within 10 to 14 days.

CASE 1
P86:09:03

The appellant was granted maternity leave to have her second child. During the period of leave, severe health problems occurred as a complication of the pregnancy. The appellant claimed that when advice was sought she was met by a "hostile" supervisor who said that "because pregnancy is self-inflicted" she should not be entitled to any government benefits. The appellant claimed that efforts to obtain additional information were met with continuous hostility and attempts to thwart her efforts to obtain benefits. Eventually, the appellant terminated her employment and took a refund of contributions.

Medical evidence was presented that supported the appellant's claim that she had become disabled. It was clear that she was advised that she was not entitled to benefits under the pension plan until age 65. Her doctor provided a statement that the member "has found herself to be in the unfortunate position of being severely disabled and entirely dependent upon her husband for her upkeep."

The appellant sought assistance from the Association of Canadian Travellers (a private agency) and was assigned a counsellor who directed her to the Canada Pension Plan (CPP) office and advised her to approach her union. The appellant was awarded a disability pension from the CPP. After receiving CPP disability, she approached her union for assistance in determining her benefits under the Public Service Pension Plan.

When she applied to Payroll and Pensions to reinstate her refund, she was not allowed to do so because the application exceeded the 90 day time limit for making a benefit choice. Furthermore, it stated that the request for the refund was a specific and clear choice. The employer contended that the member had access to the Collective Agreement, Pension Information Booklets and Pension legislation. It stated that the department did not have expertise and "it was not their normal practice to counsel employees on their pension options; they refer these questions to the trained Pension Counsellors in Treasury." The supervisor denied knowledge of severe health problems experienced by the appellant.

On behalf of the Minister, Payroll and Pensions argued that the Board lacked jurisdiction to deal with this case (see p. 18).

FINDINGS

The appellant had 9.3240 years of pensionable service with the ability to increase the service, by the purchase of previous government service. The resulting length of service would have been sufficient to provide a pension for life. It was also determined that there was sufficient medical evidence to provide an immediate disability pension, if the service was reinstated.

CONSEQUENCE OF DECISION BY THE MINISTER

The consequence of the actions taken by the supervisor, Department, and Payroll and Pensions in this case would deny the individual the right to a disability pension.

DECISION BY THE BOARD

Based on the evidence presented at the hearing, the Board, in a divided decision, ordered that the appellant be permitted to reinstate her pension under the plan. Once reinstated, the appellant could apply for a disability pension.

CASE 2

P85:11:08

The appellant stopped working on July 31, 1985 and applied for early retirement. The normal option forms were forwarded to the appellant and the completed "choice form" was returned on August 7, 1985. The pensioner chose a guaranteed fifteen year option without co-ordination with the Old Age Security and Canada Pension Plans.

The member received $700.00 per month at retirement. However, he claimed to be under the impression that he would receive $942.00.

The pension cheque was processed and the payment forwarded on September 12. On September 18 the appellant called Payroll and Pensions to register a complaint that the payment was considerably less than he expected. When he was advised that the amount was correct in accordance with his choice, he claimed that an error was made in completing the choice form and that he intended to co-ordinate his pension with the federal plans. Payroll and Pensions advised that they could not change the amount since the "official" payment had been made.

FINDINGS

It was found that the Minister had acted correctly in this case. The information provided by the member was correctly interpreted and applied by the administration.

The appellant was confused by the documentation and "ticked" the wrong box on the form. Circumstances of the individual had not changed materially from the time of the original choice.

CONSEQUENCE OF DECISION BY THE MINISTER

The appellant would have received considerably less income than he had expected.

DECISION BY THE BOARD

It was clear to the Board that the member had made an understandable mistake in registering his choice. The appeal was upheld and the pension choice changed to allow co-ordination with the federal plans.

CASE 3

P85:11:06 & P85:11:07

The appellant stopped working on July 17, 1985 at age 59. He had accumulated more than 10 years of pensionable service and was eligible for an immediate monthly pension of $138.00. Notice of Termination, signed by the member, was received by Payroll and Pensions on July 17, 1985, requesting a refund of contributions. Payroll and Pensions processed the request and forwarded the refund of $4,100 on August 6, 1985. The cheque was forwarded to his employer for distribution.

An undated letter was received by Payroll and Pensions on June 28, 1984, requesting information on the "cost of prior service". Payroll and Pensions responded that the member should direct the request to them via his employer. The period of service involved sixteen years previous employment with the same employer. There had been a previous costing of prior service calculated and the appellant advised of the amount owing on November 22, 1972.

FINDINGS

The member took no action to purchase prior service when advised on November 22, 1972.

The member did not receive adequate counselling when the request for a refund was made. The member at age 59 was entitled to an immediate pension. Payroll and Pensions had violated a regulation of the Board (P82:06:09) which does not permit a refund to be made when a member is eligible for an immediate pension. The regulations had not been replaced and were still in force.

CONSEQUENCE OF DECISION BY THE MINISTER

The appellant was not allowed to return the refund in order to be eligible for an immediate pension.

Secondly, the refusal to allow the purchase of prior service did not permit the member to increase his pensionable service from 10+ years to some 27 years.

DECISION BY THE BOARD

The Board found that on the issue of the purchase of the prior service, the member was the author of his own misfortune. He had ample opportunity to establish the service when he was employed. His failure to do so was his own fault. The decision of the Minister was confirmed and the member was denied the ability to purchase the service.

In the second issue, the Board vacated the Minister's decision and allowed the reinstatement of the service by a return of the refund, in order that the member receive a pension.

CASE 4

P86:03:09

The appellant, on February 10, 1978, applied to purchase a period of Federal Government Service. Payroll and Pensions advised that $2,500 was required to establish 10+ years pensionable service. On June 1, 1980 the appellant commenced payments by payroll assignment to establish his service. During December 1985, a lump sum payment was made to complete payment of the assignment.

The appellant chose to take early retirement effective February 28, 1986. While processing the file for retirement it was discovered that the contributions required initially were incorrect - the costing was based on 5% of historical salary and not the 12% of historical salary as required by regulations. The outstanding amount was communicated to the member and she was advised that she had to pay an additional $4,600. The member was given a choice of paying the amount or taking a prorated portion of service which reduced the service from 10 to 2.5 years of pensionable service.

FINDINGS

The statement, providing information on service, forwarded to the member advised that the file was subject to an audit before finalization.

The matter was processed under legislation in effect prior to November 1, 1985 which did not provide authority for the Board to deal with the case.

CONSEQUENCE OF DECISION BY THE MINISTER

The member was required to make a choice to either take a reduced pension or make the additional payment.

DECISION BY THE BOARD

The Board ruled it lacked jurisdiction to deal with the matter.

CASE 5

P86:09:04

The appellant commenced employment on May 1, 1977 and reached age 65 during the month of May 1985. As required by legislation, the appellant selected a pension option. The employer, because of the unique skills of the appellant, asked him to continue employment after age 65.

The employer attempted to make contributions but was denied the opportunity to do so since the appellant had reached the normal retirement age. A further extension of employment was granted by the employer expiring on May 31, 1987.

The member lodged an appeal citing discrimination on the basis of age.

FINDINGS

The pension legislation changed effective November 1, 1985 and individuals reaching retirement age subsequent to that date are required to participate in the plan.

The legislation, in excluding from participation persons who reached age 65 prior to November 1, 1985, while requiring participation by individuals who reached age 65 after November 1, 1985, discriminated against an identifiable class on the basis of age.

The Charter of Rights and Freedoms came into force on April 15, 1985 and Alberta did not opt out of the Charter.

The member reached 65 on May 17, 1985.

CONSEQUENCE OF DECISION BY THE MINISTER

The decision to enforce the legislation created an identifiable class of persons who were discriminated against solely on the basis of age, which is contrary to Section 15 of the Charter of Rights and Freedoms. It further denied the appellant the right granted to other employees: to increase his pensionable service after age 65 while still employed.

DECISION BY THE BOARD

The Board ruled in favour of the appellant and ordered that he be permitted to participate in the plan from May 17, 1985, thereby placing him in a similar position to employees reaching 65 after November 1, 1985.

CASE 6

P86:08:02

The appellant commenced employment on April 1, 1980 and started to make current service contributions under the plan. Four years later, the position was converted from full-time to a full-time recurring term. The appellant ceased making contributions to the plan on May 28, 1984 at which time leave of absence without pay was granted for the period April 27 to September 3, 1984.

The employer, on the recommencement of the recurring term employment, requested that the appellant be activated as a member under the plan. The employer was advised by Payroll and Pensions that the member was reinstated February 1, 1985.

On September 16, 1985, a request to establish a period of prior service, including the period of leave, was forwarded to Treasury. The Notice of Cost of Prior Service forwarded to the member on February 26, 1986, advised of the cost of the prior service while rejecting the period of leave. The employer took immediate steps to advise that it wished to have the period of leave included as prior service.

Payroll and Pensions took the position that due to the fact that the time limit to apply for leave had expired, the period could not be considered.

FINDINGS

The request for recognition of the leave was filed by the member on January 31, 1985.

The employer did not forward the request to Payroll and Pensions until September, 1985. The period was:

a) 4 months and 28 days after non-contributory employment, and

b) 1 day prior to commencement of the participating period under the plan.

The member was not entitled to apply for the recognition of service any earlier.

CONSEQUENCE OF DECISION BY THE MINISTER

The appellant lost the opportunity to purchase a period of leave of absence which in turn reduced his pensionable service and prospective pension.

DECISION BY THE BOARD

It was decided that the member be allowed to purchase the period of leave of absence as pensionable service.

CASE 7

P85:11:04

The appellant contributed to the pension plan for a period of seven years when he suffered serious injuries in a motor vehicle accident and could not return to work. He started receiving benefits from Workers' Compensation Board (WCB) as a result of his injuries. The appellant applied for an early retirement pension effective May 1, 1985. A Notice of Termination was also forwarded to Payroll and Pensions by the employer indicating that final contributions to the plan were made on April 30, 1984.

FINDINGS

Appellant applied for a disability pension (because of his reduced life expectancy), instead of the option of continuing to contribute to build up benefits under the plan for retirement at the normal retirement date.

Spousal protection is enhanced by continued contribution while a member is receiving Long Term Disability Insurance (LTDI) benefits.

Member is covered by LTDI benefits but, because of the fact he is receiving WCB benefits, and LTDI is a last payor, he receives no remuneration from the plan. However, under the program, he is required to contribute to the pension plan.

Because he was covered by LTDI, premiums on group life had been waived and the employer continued to pay the employer premiums for Alberta Health Care and Blue Cross Plans.

CONSEQUENCE OF DECISION BY THE MINISTER

The Minister's decision required the individual to continue to contribute to the pension plan but refused to grant a disability pension.

DECISION BY THE BOARD

The Minister's decision was verified since a severance of employee/employer relationship had not occurred.

CASE 8

P86:11:04

At commencement of contributions under the Public Service Pension Plan (PSPP), the appellant made an application to purchase several periods of prior service. Part of the service, a period with the Department of National Defence (DND), was rejected by the Minister. Later, several other periods of prior service were requested, including a period of internship, a period as a resident and another request to recognize the time with DND. Several questions were raised, one being the basis of the costing of the service, another the extent of the service and finally the impact of the service recognised under another jurisdiction on the Public Service Pension Plan.

FINDINGS

The appellant was a member of the RCAF from September 1950 to August 1952. Most of that period covered university attendance under an officers' training program. He was engaged in the "primary reserve" of the RCAF. Short periods, from June 1 to September 7, 1951, and again from May 8 to September 10, 1952 were served on continuous special duty with the regular forces.

It was also found that no determination, respecting the period July 1, 1957 to June 30, 1958, nor the period July 1, 1959 to June 30, 1960, had been made.

Regulations dealing with the recognition of military time excluded Royal Canadian Air Force Primary Reserve time and were in effect since 1976.

CONSEQUENCE OF DECISION BY THE MINISTER

The Minister's decision to deny the recognition of Primary Reserve time in the RCAF resulted in a lost opportunity to gain additional pensionable service.

DECISION BY THE BOARD

The Board declared that it lacked jurisdiction to deal with the appeal on the eligibility for recognition of a period of time served as an intern and senior intern, since the Minister had not made a determination.

On the second issue, time served in the Primary Reserve of the RCAF, the Board confirmed the Minister's decision and denied the appeal to recognize the time served in the Primary Reserve. In addition, it was ruled that two periods June 1, 1951 to September 7, 1951 and May 8, 1952 to September 10, 1952 were periods of full-time engagement with the RCAF and were eligible service under the plan.

CASE 9

P86:04:06

The appellant was employed by a participating employer and upon reaching age 65 was required to retire in November 1981. The member was employed and had repaid the pension. (Mandatory retirement age was removed on November 1, 1985.) When he retired in December 1985, the member requested that he be allowed to choose a different pension option. The Minister denied his request on the basis that the choice had already been made.

FINDINGS

(The member was not retired for three months and therefore was not entitled to be paid a pension in the first place.)

The Act specifically required the member to make a pension choice within 3 months of being required to do so following a pension "entitlement". Even though the option had been made, the member was not permitted to receive a pension under the regulations when he reached age 65.

CONSEQUENCE OF DECISION BY THE MINISTER

The decision of the Minister denied the member the right to make a choice when he finally retired.

DECISION BY THE BOARD

Based on a legal interpretation, the Board vacated the decision of the Minister and ordered that the member be given the opportunity to make a choice when he retires.

CASE 10

P86:02:04

The appellant was employed by a hospital which was an employer under the Public Service Pension Plan (PSPP). Previously the appellant was employed by a hospital under the Local Authorities Pension Plan (LAPP). The appellant accepted employment with the hospital under the PSPP and then took a vacation to travel to the U.K. and Europe. When she was scheduled to return, she discovered that the charter company had filed for bankruptcy and consequently she was stranded in England. She contacted her "new" employer and received permission to report late. It took her some time to make return arrangements.

FINDINGS

The appellant had been hired by the new employer within the three months. There was a legitimate bankruptcy of the charter company and several vacationers were stranded in Europe as a result. The appellant obtained permission from her new employer to report late because of the circumstances.

CONSEQUENCE OF DECISION BY THE MINISTER

The appellant would have been forced to accept a refund of contributions and interest at 4%, she would have lost the employer contributions under the previous plan and would have had to contribute both employee and employer contributions to establish the service under the PSPP.

DECISION BY THE BOARD

The appeal was upheld and the transfer allowed. The Board was convinced that the circumstances that caused the member to miss the time limit were well beyond her control and warranted the extension of the time limit.

CASE 11

P86:03:05

A plan member was employed by a participating employer whose status changed to non-participating. Special arrangements were made to permit persons who were participating in the Public Service Pension Plan to continue to participate, even though new employees would be required to contribute to the Local Authorities Pension Plan because of the change in status. The appellant elected to continue to participate when the offer was first made. The member was less than age 55 when he exercised the original offer. Now over 55 the member requested a pension be paid to him immediately, even though he continued to work for the same employer. The member argued that since the new employees were not participating, he should be permitted to cease his participation under the plan.

FINDINGS

The member had exercised an option and elected to continue to participate.

No severance of employment had taken place.

CONSEQUENCE OF DECISION BY THE MINISTER

The decision of the Minister resulted in the member being required to contribute under the Public Service Pension Plan until he ceased employment.

DECISION BY THE BOARD

Since the Minister had acted appropriately in denying the application for a pension, the Board confirmed his decision.

JURISDICTION

The Board's jurisdiction was challenged on two occasions.

QUESTION #1

In hearing an appeal against a decision not to permit the reinstatement of a refund (see CASE #1) it was the Minister's position that the Board lacked jurisdiction because:

Section 1(1)(a) defines benefit to include 'benefit' on termination'. Section 10(3) provides where a benefit choice has been made, the Board may, on application made to it within 3 months, deal with the matter. If the matter is not dealt with within 3 months, section 40(2) makes the choice irrevocable.

Because of the specificity of sections 1(1)(a), 10(3) and 40(3), and section 35(2)(6), they do not apply to the case in question.

The Board in reviewing the matter found

Section 35 provides authority to hear appeals on all aspects of the Act, except under section 32 or a topic that may be the subject of section 10 of the Act.

Section 10 does not apply since the participant intended to obtain a refund and a time limit is not in question.

The Board concluded it had jurisdiction to hear the case on the basis that:

The subject matter of the appeal is not covered by section 10. Appeal is not against a decision made under section 32.

QUESTION #2

The second challenge related to the hearing of a person who had reached age 65 prior to November 1, 1985. It was argued that the legislation did not permit a person who had reached age 65 prior to November 1, 1985 to participate in the plan. Therefore it was argued that the Board had no authority to hear the case.

The Board ruled it had jurisdiction on the basis of sections 15 and 24 of the Charter. The matter was heard by the Board and a decision made (see CASE #5).

RECOMMENDATIONS

In fulfilling its responsibility as advisor to the Minister responsible for pensions, the Board made several recommendations during the year. The following provides an overview of the recommendations made. The response received and outcome of each recommendation is also provided.

During the year, recommendations were made suggesting improvements to the plan or to the administration of the act.

Reports are developed by the staff to assist the Board members in fully understanding the issues. A review of the norms of the industry and how other jurisdictions have dealt or are dealing with the topic are also considered. Pension reform in Canada and how it impacts upon the PSPP are outlined in some detail. A series of options are presented for consideration when practical.

Where required, statistics from areas outside of Canada are also provided to ensure full consideration of all relevant statistics and information.

The reports are usually refined and developed into a Board report which is then forwarded with a recommendation to the Minister for his consideration.

Where possible, the Board joins other Government Pension Boards in presenting a unified presentation to the Minister.

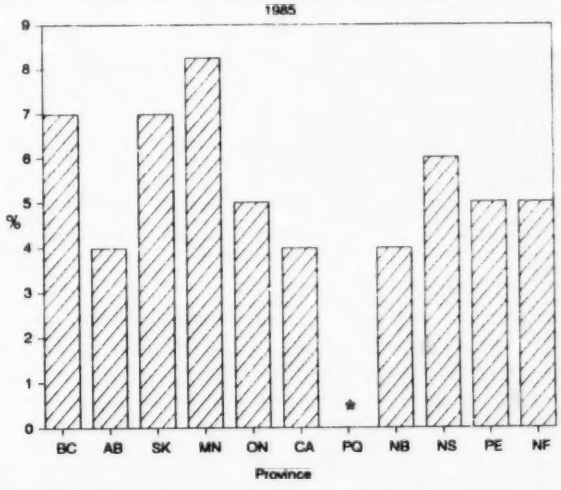
RECOMMENDATION 1
P86:02:09 CREDITED INTEREST

Currently, participants' contributions are credited with interest at 4% compounded semi-annually. This rate of interest has been in place since July 1, 1966 when the rate changed from 3% per annum. In February 1986, the Board recommended that the rate of credited interest be increased to the average rate paid on non-chequing savings accounts for the previous year, as reported by the Bank of Canada.

Subsequently, the provincial authorities regulating private sector pension plans reached a consensus on crediting interest. Private employers are provided an option to credit interest on pension contributions either at the gross fund yield, less administrative expenses charged to the fund; or based on the 5-year personal fixed term chartered bank deposit rates over the previous fiscal year.

The following chart provides an illustration of the current situation in Canada.

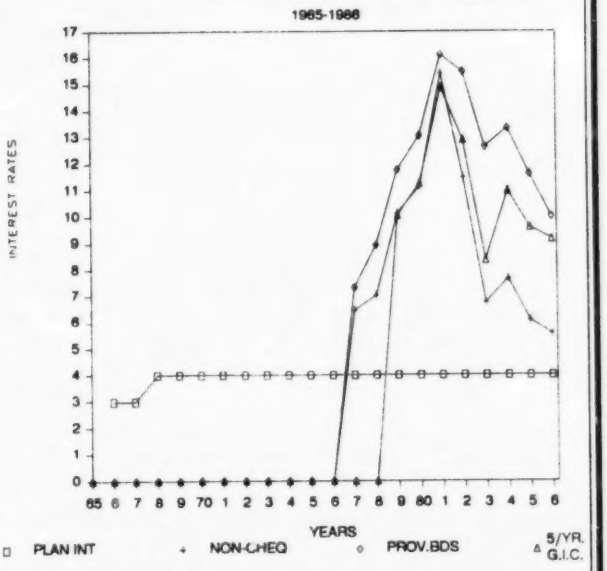
PUBLIC SERVICE INTEREST RATES



Interest credited in other Public Service Plans in Canada on current contributions.

* interest based on fund earnings
1-2 years 60% of fund interest
3-5 years 85% of fund interest
+5 years 90% of fund interest

INTEREST COMPARISON



Rate comparisons over the last twenty years indicate that the "plan rate" of 4% has been out of step and a source of discontent among plan members.

A full report was forwarded to the Minister during April 1986.

RECOMMENDATION

That the pension legislation be amended to allow the crediting of interest under the plan at non-chequing savings account rates as reported by the Bank of Canada.

CURRENT STATUS

The report is under consideration by the Minister and his Department. The Board's view will be taken into account when a review of pension policy and funding is completed.

RECOMMENDATION 2
P86:02:08 & P86:11:06
COST OF LIVING ADJUSTMENT (COLA)

Each year the Board develops a recommendation to the Minister in respect of adjustments to pensions. The Board reviews the Consumer Price Index (CPI) trends during the year, and in light of various other benefits granted to pensioners, develops its position.

Historical Increases

In 1969, the Government of Alberta amended the Public Service Pension Act to authorize the Lieutenant Governor in Council to make adjustments in pensions for the purpose of maintaining an approximate parity with the cost of living.

The new Pension Plan Act effective November 1, 1985 contains the following provision:

"Notwithstanding anything in this Act, the Lieutenant Governor in Council may by regulation, for the purpose of maintaining approximate parity with the cost of living, make adjustments in the amount payable as pensions."

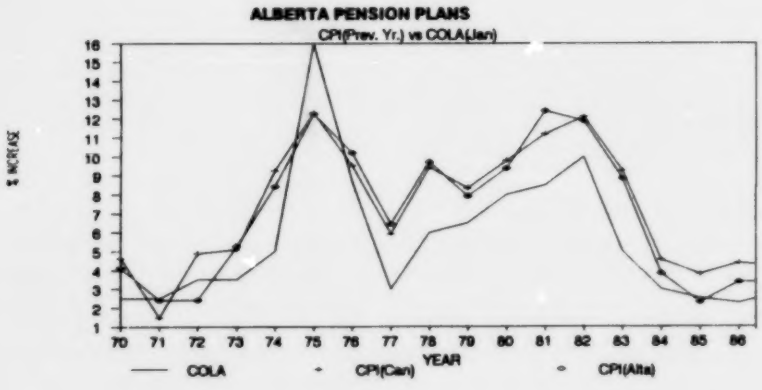
In the years 1970 through 1986, a Cost of Living Adjustment (COLA) has been consistently applied on an ad hoc basis with the result that the average annual compound increase over this period represents 76% of the Canada CPI and 80% of the Alberta CPI. A comparison of the history is outlined below.

Participants' contributions are scheduled to rise until 1989. At that time, the contributions will, in accordance with recent actuarial findings, be sufficient to provide some COLA on future pension benefits. The Board's concern is that the level of COLA to be granted is not defined in legislation.

In view of the province's economic climate and 'low' wage settlements, the Board recommended that adjustments to pensioners be at levels somewhat lower than 75% of 'Alberta' (average of Edmonton and Calgary) increase in CPI over the measurement period. The Board recommended a COLA of 2.5%, effective January 1, 1987, for persons who retired prior to December 31, 1986.

CURRENT STATUS

The Lieutenant Governor in Council authorized adjustments to the recipient of pensions under the Public Service Pension Plan on a pro-rated basis. The proration was directly related to the date of retirement. The COLAs granted were 2.25% in 1985 and 2.7% in 1986.



RECOMMENDATION 3
P86:10:05
REVIEW OF PRIOR SERVICE

The recognition and costing of prior service was reviewed as a result of various concerns. A primary concern was that for some services, the costing method produced exorbitant costs far exceeding the actuarial value of the prior service. Pension reform, tax reform and the need for fiscal responsibility also impact on the review of prior service provisions.

RECOMMENDATION

(i) that certain types of service recognized under the plan become ineligible for purchase;

(ii) that the cost of reinstating service for which a refund was previously received be based on current salary;

(iii) that portability between Alberta public plans be reviewed by the Department before changes are made to recognition of contributory prior service under other Alberta plans;

(iv) that commuted value amounts transferable under pension reform legislation be held in the individual's RRSP rather than being permitted into the plan, and

(v) that the minimum monthly prior service payment be increased, prompt application be encouraged and a market amortization rate of interest apply.

CURRENT STATUS

The report has been accepted by the Minister and will be considered, when the overall review of the plan is conducted by his department.

RECOMMENDATION 4
P86:10:02 & P86:10:03
PENSION OPTIONS

a. Joint-Life Options

The current legislation requires the retiring member to select a joint-life option on retirement, if the member has a spouse.

Several members have expressed concern that in forcing a joint-life option, the plan places their investment in jeopardy. If both partners died shortly after retirement, the member's contributions would be lost to the member's estate.

RECOMMENDATION

That joint-life pension options be enhanced by inclusion of a guarantee period of five years.

b. Co-ordination with Federal Plan

The CPP recently was amended to permit receipt of the benefit at age 60. Retiring members who retire prior to age 65 were permitted to co-ordinate their pension with the Canada Pension Plan. This option permitted a relatively level income to be received over the retirement of the individual.

RECOMMENDATION

That co-ordination options be made available to persons retiring prior to age 60 and that it be modified to reflect receipt of reduced benefits from the Canada Pension Plan at age 60.

CURRENT STATUS

The Minister advised that the Boards' recommendation will be considered when the overall review of the plan is completed.

RECOMMENDATION 5
P86:10:04
CURRENT SERVICE CONTRIBUTIONS

Increases in contribution levels were implemented and the schedule of increases was established as follows:

YEAR	EMPLOYEE * CONTRIBUTIONS
1984	3.5/5%
1985	3.675/5.25%
1986	3.85/5.5%
1987	4.025/5.75%
1988	4.2/6%
1989	4.37/6.25%

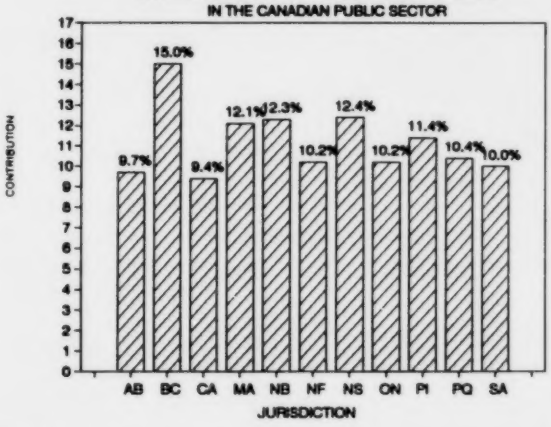
* Employer matches

Based on the most recent actuarial report, the unit credit method would produce a current service cost of the plan as a percentage of payroll at 10.5%.

During this reporting period, the current service contribution ratio on the basis of the unit credit method is 80% of the actuarial percentage required. Consequently, from the point of view of current service, the plan has reached an 80% funded position. This will continue to rise until 1989, when the maximum adjustment will be reached. The plan will then be 95% funded on a current service contribution basis.

The following chart shows the aggregate rates of contributions for the provincial public service plans as well as the Federal Superannuation Plan, using the unit credit method. Alberta is now approaching a position of equilibrium in comparison with other public plans.

COMPARISON OF CONTRIBUTIONS
IN THE CANADIAN PUBLIC SECTOR



RECOMMENDATION

That the increases continue as scheduled, and when the maximum is reached in 1989, an actuarial review be conducted. More realistic assumptions and the unit credit method should be used to determine the contributions required to fund the plan on a current service basis.

CURRENT STATUS

Remains under review by the Minister.

EXCERPTS FROM THE PUBLIC SERVICE PENSION PLAN ACT

Division 2

The Public Service Pension Plan Board

Establishment, composition, term of office, etc.

5(1) There is hereby established a board known as the Public Service Pension Plan Board.

(2) The Board shall consist of not fewer than 5 persons appointed members of the Board by the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council shall appoint 1 of the members of the Board from among persons nominated by the Alberta Union of Provincial Employees.

(4) A member of the Board holds office for the term fixed in relation to him by the Lieutenant Governor in Council.

(5) The Minister may prescribe the remuneration and expenses to be paid to members of the Board.

Chairman and vice-chairman

6(1) The Lieutenant Governor in Council shall designate one of the members of the Board to be the chairman and another member to be the vice-chairman of the Board.

(2) The vice-chairman shall act as chairman when the office of chairman is vacant or when the chairman is absent or unable to act.

Support services

7 The Minister shall provide such supplies, services and accommodation as he considers necessary to enable the Board to fulfil its objects.

Objects of the Board

8 The objects of the Board are

(a) to conduct the hearing of appeals under Part 6;

(b) to provide the advice to the Minister under section 9;

(c) where appropriate, to extend time limits and treat benefit choices as revoked under section 10;

(d) to exercise and perform any other powers and duties assigned to it by this Act and the regulations;

(e) to perform any other duties relating to the Plan that are assigned to it by the Minister.

Advisory functions of the Board

9 The Board may advise the Minister respecting any functions of matters relating to the Plan, including

(a) The adequacy of contributions to meet benefits,

(b) adjustments to pensions under section 27,

(c) rates of interest for the purposes of the Plan,

(d) benefits,

(e) reciprocal agreements,

(f) recognition of prior service,

(g) eligibility and participation in the Plan, and

(h) the actuarial tables prescribed or to be prescribed by the Minister.

Board's power to extend time limits, etc.

10(1) Where

(a) a person fails to meet a time limit under the plan,

(b) the failure will or could result in a person's obtaining different benefits than those he would have obtained had the time limit been met, and

(c) the Board is satisfied that the failure results from circumstances that import no material fault on the part of that person,

the Board may, on application to it, extend the time limit.

(2) Where

(a) the circumstances set out in subsection (1)(a), (b) and (c) apply,

(b) the benefit has been received or has commenced to be paid, and

(c) the Board is satisfied that a choice, including a deemed choice, that would otherwise be irrevocable under section 40(2) could materially prejudice the best interests of the recipient or his dependants,

the Board may, on application to it, treat that choice as revoked, extend the time limit for making the choice and order any consequential adjustments in the benefits.

(3) Where

(a) a benefit choice has been made, and

(b) the Board is satisfied that

(I) the choice communicated to the Minister was not that which the person making the choice actually intended, and

(II) the application mentioned in this section does not result from a change in a person's circumstances affecting the choice,

the Board may, on application made to it within 3 months from the date when the benefit was received or commenced to be paid, treat the choice as revoked, substitute for it the choice that, in the Board's opinion, the person originally intended to make and order any consequential adjustments in the benefits.

Part 6
Appeals

Appeal to the Board

35(1) A party aggrieved by a decision of the Minister under or in relation to Parts 2 to 5 or the prescribed provisions of the regulations, other than a decision under section 32 or one that could be the subject-matter of an application under section 10, may appeal against that decision to the Board.

(2) A party wishing to appeal to the Board under this section must serve the chairman of the Board with a notice of appeal in the form prescribed by the Minister within 30 days of being notified in writing of the decision appealed against or within such longer period as the Board may, on application, allow.

(3) The notice of appeal must specify the decision appealed against and the ground of appeal.

(4) The Board may identify persons who may be interested in the appeal and may give directions as to the persons to be served with the notice of appeal, whether or not they are parties.

(5) For the purposes of conducting an appeal under this section, the Board

> **(a) has all of the duties, powers, privileges and immunities given to a commissioner appointed under the Public Inquiries Act by sections 3, 4, 7 and 9 of that Act, and**
>
> **(b) shall be deemed to be a person for the purposes of section 1(a) of the Administrative Procedures Act.**

(6) The Board may confirm, vacate or vary the decision appealed against.

(7) The Board shall serve the appellant and persons who received a notice of appeal with a copy of its decision, including the reasons for the decision.

36(1) A party aggrieved by a decision of the Board under section 35 may, within 30 days of the date of service of the Board's decision on him or such longer period as the Court may allow, appeal to the Court of Queen's Bench on a question of law or jurisdiction.

(2) The procedure in appeal to the Court of Queen's Bench shall be the same as that provided in the Alberta Rules of Court for applications by originating notice.

(3) The Court of Queen's Bench, on hearing the appeal, may confirm, vacate or vary the decision of the Board or make any order it considers just.